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COMMITTEE AGAINST TORTURE

Seventeenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 274th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 November 1996, at 10.30 a.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.274/Add.1.

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The meeting was called to order at 10.50 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Second periodic report of Uruguay (CAT/C/17/Add.16)

1. At the invitation of the Chairman, Ms. Rivero, Mr. Cardinal Piegas and Mr. Pecoste (Uruguay) took places at the Committee table.

2. Ms. RIVERO (Uruguay) said that her country had been involved from the outset in the gestation of the Convention against Torture and had ratified it even before its entry into force. The attendance of representatives of the Executive and the Judiciary as members of her delegation bore testimony to Uruguay's unfailing resolve to fulfil its obligations under the Convention. Her Government was well aware that the task facing it was neither simple nor brief and that many legislative, judicial, administrative and practical measures needed to be set in motion in order to bring Uruguay closer to the objectives of the Convention. Her Government looked forward to hearing the Committee's suggestions and recommendations, which would make a great contribution to the attainment of those objectives.

3. She apologized for the delay in the submission of her Government's initial report. Her delegation would be grateful if the Committee could indicate how the Government could make amends for that delay.

4. Mr. GONZALEZ POBLETE (Country Rapporteur) welcomed the delegation and praised Uruguay for its early ratification of the Convention without reservations. Uruguay had also acknowledged the provisions of articles 20, 21 and 22 and demonstrated its commitment to human rights by acceding to the major regional and international instruments in that sphere.

5. He recalled the discussion on the definition of torture which had taken place when the initial report of Uruguay had been considered. In response to the Committee's observations, the Uruguayan delegation at that time had stated that although no legislation had been approved for the inclusion of a definition of torture in domestic law, two initiatives had been under way. First a bill on crimes against humanity had been submitted to Parliament; and secondly, a technical cooperation agreement had been concluded between the Uruguayan Ministry of Foreign Affairs and the United Nations Centre for Human Rights to conduct a systematic review of the country's legislation, in order to bring it into line with binding international law. It was regrettable that, following a series of difficulties, the agreement had been suspended. Paragraphs 7, 8 and 42 of the second periodic report (CAT/C/17/Add.16) admitted not only that the bill had still not been passed by Parliament, but also that there was no separate offence of torture in Uruguayan legislation.

6. Despite the majority view, expressed in paragraph 5, that international treaties in force in Uruguay had a normative status identical to that of ordinary law, there was no guarantee that individual judges would not deviate from that doctrine. In the absence of a specific offence of torture, it was not safe to conclude that the Convention was on an equal footing with Uruguayan legislation and that article 1 would be applied directly.

7. In his opinion, the bill submitted to the Uruguayan Parliament on crimes against humanity was adequate because it incorporated important elements which classified and punished the most serious violations of human rights. With regard to the definition of torture, the bill extended the scope of application of the Convention to include various categories of injury and psychological abuse. He drew attention to the fact that according to the Convention and the body of international instruments on human rights, State terrorism or official tolerance of abuse justified the initiation of national and international proceedings.

8. There seemed to be a certain indifference to the introduction of a definition of torture into Uruguayan legislation. The views of the Government on the draft definition produced by the Uruguayan Bar Association were not yet known. The whole process seemed to be taking a very long time, and he wondered what measures the Government was taking to expedite it.

9. As to the legislative measures proposed to prevent torture in detention centres, it was stated in paragraph 10 of the report that an Honorary National Commission for the Amendment of the Code of Penal Procedure had been established in 1990. It had drafted a new Code which included the establishment of courts of enforcement and supervision. He wondered whether that draft was the same as the one referred to in the initial report of Uruguay. The Honorary Commission had had 180 days to carry out its task. Since he had been unable to find its report in the documentation attached to the second periodic report, he wondered what action was being taken on its recommendations.

10. On the question of administrative measures intended to prevent torture, he asked who appointed the head and staff of the Police Attorney's Office mentioned in paragraphs 20 and 21 of the report, what were the functions of the Police Attorney? What degree of independence did he enjoy? And did he have powers to investigate allegations of torture?

11. Paragraph 22 stated that according to non-governmental sources approximately 18 police officers had been prosecuted in 1994 for offences against the physical integrity of persons under arrest, in detention or on trial. Could the Ministry of the Interior confirm those figures? And were any more recent statistics or information available on the work of the Police Attorney's Office? What had been the outcome of the prosecution of the 18 police officers?

12. He referred to a report by the Ministry of the Interior (the original was not in his possession) to the effect that 109 officers had been tried for offences committed in the course of their duty, 49 of whom were still in their posts. What steps were taken when police officers exceeded their powers?

13. Paragraph 18 of the report mentioned the initiative adopted in February 1995 by the Inter-Party Commission on Public Security to set up a parliamentary commissioner to examine issues relating to prisons. While that measure was impressive, it was unfortunate that it had not yet been implemented.

14. The defence of "due obedience" in Uruguayan law had already been examined by the Committee in connection with the initial report, and it was referred to in paragraphs 25 to 34 of the present report. Having reviewed those paragraphs, he concluded that Uruguayan legislation did not meet the requirements of article 2, paragraph 3, of the Convention in respect of the inadmissibility of an order from a superior officer or a public authority as justification for torture.

15. Turning to article 4, he referred to the point he had made in connection with the definition of the crime of torture in his remarks on article 1. The case referred to in paragraph 53 of the report concerning a criminal court of second instance which had reversed a lower court's decision and ordered a police officer and a commissioner to be tried, was praiseworthy but unique. It did not mean that other courts would be similarly severe. In fact, only article 266 of the Penal Code punished the abuse of authority and the two-year term of imprisonment that it laid down was insufficient in the light of article 4, paragraph 2, of the Convention.

16. Mr. SORENSEN (Alternate Country Rapporteur) said that the answers in the report concerning article 10 of the Convention were satisfactory. He had been particularly impressed by the description in paragraphs 71 et seq of three training seminars. Had those seminars - for prison officers, judges and members of the medical profession - been repeated? Had the seminar for judges led to any recommendations? And if so, had they been implemented?

17. He welcomed the information in paragraph 95 of the report about the compendium of ethical standards distributed to students in the Faculty of Medicine.

18. In connection with article 11 he, like Mr. Gonzalez Poblete, wished to know when the proposed enactment concerning the courts of enforcement and supervision would come into force and to learn of any developments connected with the Office of the Ombudsman. Was the Citizens' Security Act adopted on 12 July 1995, as mentioned in paragraph 112, already in force? And if so, how did it operate?

19. On the question of prisons, in connection with the riot in Libertad prison, he asked whether the delegation could read out article 317 of the Penal Code for his information.

20. He asked the delegation of Uruguay whether it could confirm information he had received according to which 85 per cent of all prisoners were on remand awaiting trial and that often the time spent in remand exceeded the sentence which would have been imposed. If that information was correct, what was the Government of Uruguay doing to remedy such a state of affairs?

21. Concerning article 14 of the Convention, he was pleased to learn that the Uruguayan Constitution established the liability of the State to pay compensation for injury caused by its agents (CAT/C/17/Add.16, para. 113) and requested details on how that was done in practice. For example, if a policeman was found guilty of committing torture, did the judge automatically enter a claim for compensation on behalf of the victim? Were citizens entitled to compensation from the State even if they were unable to identify

their torturers? If a victim was not satisfied with the compensation paid, could he institute civil proceedings against his torturers, assuming that he could identify them?

22. Uruguay had a rehabilitation centre for the treatment of victims of torture, known as SERSOC (Servicio de Rehabilitación Social), which Denmark had taken the lead in setting up and which was funded chiefly by countries of the European Union, and not Uruguay itself. The authorities argued that cases involving torture had occurred 10 or more years previously and thus the victims had long been treated. That was not true: in many instances, the victims of torture did not request treatment until much later. What was more, the second generation of family members also suffered and required special treatment. Was the Government of Uruguay aware of the Centre's existence? And would it consider supporting the Centre?

23. Mr. CAMARA said that, according to paragraphs 5 and 6 of the second periodic report, in Uruguay international treaties had a normative status identical to that of ordinary law and that the rules contained in international treaties were of lower rank than the Constitution. In that connection, he noted that there was a contradiction between the Uruguayan Penal Code, which regarded obedience to a superior as a justification in respect of an offence (CAT/C/17/Add.16, para. 25), and article 2, paragraph 2, of the Convention, pursuant to which no exceptional circumstances whatsoever could be invoked as a justification of torture. He asked the delegation of Uruguay to express its views on that contradiction.

24. The CHAIRMAN asked the delegation whether Uruguay contributed to the United Nations Voluntary Fund for Victims of Torture; if not, he hoped that it would consider doing so.

25. Mr. SORENSEN pointed out that the Fund had donated US$ 20,000 to the SERSOC rehabilitation centre in 1994 and US$ 40,000 in 1995. There was thus all the more reason for Uruguay to consider contributing to the Fund.

The public part of the meeting rose at 12.05 p.m.